**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1291 OF 2006**

Waman Namdev Vishe. ...Applicant
V/s.
State of Maharashtra. ...Respondent

Shri N.N. Gawankar with Shri Arfan Sait for Applicant.
Ms.Rajeshree M. Gadhavi, APP for the State.

**CORAM : V.M. KANADE, J.**

**DATED : APRIL 10, 2006**

**P.C. :-**

. The applicant was arrested on 30th July, 2005 in connection with a complaint which was lodged at the Murbad Police Station for the offence punishable under Sections 302, 336 read with Section 34 of the IPC.

2. The prosecution case is that the applicant and the deceased were having a dispute in respect of agricultural lands. The case of the applicant is that on 29th July, 2005 the applicant, his son Budhaji and daughter Baby came to the house of the complainant and started abusing the complainant over the agricultural lands dispute. It is alleged that when the complainant came out of the house, Budhaji assaulted him on his head

with an iron rod. His father Vitthal was also given a blow of iron rod on his mouth. Ramesh was also assaulted by Budhaji with a rod on his hand. It is alleged that the applicant also assaulted the complainant's father. It is alleged that Baby hit the complainant's father on his head with a big stone as a result of which the complainant's father died.

3. It is submitted that the chargesheet has been filed. The only role which is attributed to the present applicant is that he had assaulted the complainant's father. It is submitted there was only one injury on the person of the deceased which was caused by Baby. It is submitted that the applicant is senior citizen and is 65 years of old and that the offence under Section 302 has not been committed by the present applicant.

4. Considering the material on record, in my view, this is a fit case for grant of bail. The applicant is 65 years of age. There is nothing on record to indicate that he shared the intention of Baby who had assaulted the complainant's father with a stone on his head, which

was not caused as a result of blow was given by the present applicant. The investigation is over. The applicant has a fixed place of residence.

5. The application is allowed. The applicant be released on bail in the sum of Rs.5000/- with one or two sureties in the like amount. He shall report to the concerned Police Station once in a month.

6. The applicant shall not tamper with the evidence or threaten the witnesses. If any complaint is received by the Investigating Officer, the Public Prosecutor is at liberty to file an application for cancellation of bail.

7. The trial Court shall not be influenced by any observations made by this Court while deciding the application and they shall not be construed as an expression of opinion on merits of the case.

. The application is disposed of.

**(V.M. Kanade, J.)**